REMARKS

This responds to the Office Action mailed on December 21, 2005, and the references cited therewith.

Claim 7 is amended, no claims are canceled, and no claims are added; as a result, claims 1-24 and 26- 27 remain pending in this application.

§112 Rejection of the Claims

Claims 1-16 and 19 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

The Examiner stated that "the claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the applicant was filed, had possession of the claimed invention."

Specifically, the Examiner is arguing that Applicant's amendment does not clarify the steps of "an analysis of activity across the load host computers" cited in claims 1 and 10, and the steps of "designating includes analyzing activity across a plurality of host computers and selecting a load host computer based on the load host computer activity analysis" cited in claim 19. Applicant respectfully disagrees.

For example, the original description teaches that "Once an incoming connection is identified, the configuration file 224 is reviewed by the dispatch proxy 222 for information relating to the load hosts 226_1-226_M. The dispatch proxy 222 determines to which load host 226_1-226_M it should forward the incoming connection" Original Specification, ¶ [0040]. In addition, Applicant explicitly teaches that "In general, the load host determination process can be based on the analysis of a variety of factors. Some relevant factors can include the following: when was a connection last forwarded to a load host; which load hosts include proxy applications that

support the protocol of the connection; the availability of each load host; ..... ; the last load host that was used; .....It can be appreciated that any combination of the above factors as well as other relevant factors may be considered when determining where to forward the connection." Id. ¶ [0041]. See also ¶¶ [0059] and [0060] (disclosing various ways to select a particular load host computer such as anti-virus scanning, round-robin, or reviewing load host capacity, etc.).

As shown above, Applicant not only explicitly teaches the steps of "an analysis of activity across the load host computers" but also several implementations of those steps by employing relevant technologies generally well-known to a person of ordinary skill in the art at the time of the invention.

In addition, amendments to an application which are supported in the original description are NOT new matter. According to MPEP §2163.07, mere rephrasing of a passage does not constitute new matter. Id. Accordingly, a rewording of a passage where the same meaning remains intact is permissible. *In re Anderson*, 471 F.2d 1237, 176 USPQ 331 (CCPA 1973). Therefore, in this case, a slight change in claim language in amendments are very well supported in the original description as discussed earlier and just amounts to a rewording of a passage.

Furthermore, according to MPEP §2163.07(a), by disclosing in a patent application a device that inherently performs a function or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function, theory or advantage, even though it says nothing explicit concerning it. The application may later be amended to recite the function, theory or advantage without introducing prohibited new matter. *In re Reynolds*, 443 F.2d 384, 170 USPQ 94 (CCPA 1971). In this case, as disclosed in specification ¶ [0006], although selected methods of load balancing among multiple host computers are taught by Applicant the concept of load balancing would be recognized readily by a person of ordinary

skill in the art. To perform an analysis of activity of host computers is an inherent function in selecting a particular host computer in a load balancing system.

For the above mentioned reasons, Applicant respectfully requests reconsideration of claims 1-16 and 19.

§102 Rejection of the Claims

Claims 1-27 were rejected under 35 U.S.C. § 102(e) for anticipation by Bommareddy et al. (U.S. 6,779,039).

Applicant teaches and claims in claims 1-9, a computer system which provides proxy firewall services. The computer system includes a dispatch host computer connected to an external network and at least one load host computer configured to provide the proxy firewall services; wherein the connection from the external network is distributed from said dispatch host computer to a particular load host computer based on an analysis of the type of protocol of the connection and an analysis of activity across the load host computers.

In addition, Applicant teaches and claims in claim 7 and 8, storing information relating to load host computers in a configuration file for the purpose of balancing the load among the load host computers. Furthermore, Applicant also teaches, and claims in claim 8, updating the configuration file to reflect the availability of the load host computers.

Bommareddy describes a load balancing methodology which can be used to distribute traffic to two or more servers. Bommareddy does not teach or suggest that such a system should be configured to provide proxy firewall services. In the background of Applicant's specification, Applicant teaches that it is difficult to scale firewall systems. One way that this problem has been solved in the past is to deploy load balancing hardware in front of the firewall that load balances traffic at the IP layer. This hardware is then subsequently configured to balance the load between

firewall hosts. These hardware solutions typically require a re-installation and re-configuration of the firewall and network topology, a process which is time consuming and expensive. The goal of Bommardddy is just to balance load among multiple host computers, but is far from providing improved firewall system in which load hosts can be added or removed from the firewall system without disrupting ongoing security services.

In addition, Bommareddy does not teach or suggest "an analysis of the type of activity across the load host computers" as claimed in claims 1-9. Furthermore, Bommareddy does not specifically teach or show a configuration file as taught by Applicant and claimed in claims 7 and 8, where the configuration file is kept in host computer to maintain information relating to load host computers. Finally, Bommareddy does not teach or suggest updating the configuration file to reflect the availability of another load host computer.

In order to establish a prima facie case of anticipation under 35 USC § 102(e), the Examiner must show that Bommareddy describes each and every element described in the claims. As shown above, however, Bommareddy in this case does not teach or suggest all the elements of the claims in the current invention.

For the above mentioned reasons, the Examiner's rejection of amended claims 1- 27 based on 35 USC § 102(e) is incorrect. Applicant respectfully requests reconsideration and allowance of claims 1-27.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6909 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21st day of June, 2006.

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